Supreme Court, U.S.
FILED
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02-1760

No.

IN THE
SUPREME COURT OF THE UNITED STATES

Gwen R. Pricer,
David C. M. Pricer,
Randi L. Eckhardt,

*Petitioner(s)*

v.

Samuel M. Butler,
Betty C. Butler,

*Respondent(s)*

*On Petition for Rehearing in the Matter of Writ for Certiorari*

# PETITION FOR REHEARING

Gwen R. Pricer, *pro se*
David C. M. Pricer, *pro se*
Randi L. Eckhardt, *pro se*

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26 pp

## QUESTIONS PRESENTED

1). Were Civil Rights and Liberties of the Fourteenth and Fifteen Amendments of the Constitution of the United States violated, wherein the Appellant, Gwen R. Pricer, who is a citizen of the United States and who is a registered voter in the district and jurisdiction of Fauquier County, and who is a member of an opposition political party in such district, been denied by the prejudice and stigmata from private sector and government officials as averred in the Appellants' Writ of Certiorari and wherein such actions caused the Appellants to vacate their home and registered voting district.

2). Were the Civil Rights and Liberties of the Appellant(s) Gwen R. Pricer, David C.M. Pricer, and Randi Lee Eckhardt *(a physically and mentally disabled person)* violated pursuant to Title 42 U.S.C. § 1981(a)(b), Title 42 U.S.C. § 1985, (2),(3), Title 42 U.S.C. § 1986, Title 42 U.S.C. § 14141 and under Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d ("Title VI"), and the Omnibus Crime Control and Safe Streets Act of 1968, 42 U.S.C. § 789d(c)("Safe Streets Act"), during such criminal acts committed against them as described hereafter and within their Writ of Certiorari.

3). Were the Civil Rights of the Appellant(s) Gwen R. Pricer, David C.M. Pricer, and Randi Lee Eckhardt *(a physically and mentally disabled person)*, which are protected under 42 U .S. C -Chapter 21 -Title 42-Public Health and Welfare, violated by such acts as described hereafter and in the Appellants' Writ of Certiorari.

4). Were the Civil Rights and Liberties of the Appellant, Randi Lee Eckhardt *(a physically and mentally disabled person)*, as protected under 42 U.S.C. Chapter 144 -Developmental

Disabilities Assistance and Bill of Rights- Sec.(s) 15001, 15009, 15024, 15025, 15043, violated by such criminal acts described hereafter and within the Appellants' Writ of Certiorari.

## *LIST OF PARTIES*

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Michael M. Palmer Esq., Counsel Relieved

* Mentally and Physically Disabled

*LIST OF APPENDICES*

Appendix A. Virginia Circuit Court of Fauquier County - Warrenton, Virginia
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*Albright v. Oliver*, 510 U.S. 266 (1994) (arrests made without probable cause were, in appropriate circumstances, Fourth Amendment violations),

*American Federation of Labor v. Swing*, 312 U.S. 321 (1941) (rights under the Fourteenth Amend. protects against violations of govern. and officials)

*Bd. Of Trustees v. Garrett*, 531 U.S. 356, 365 (2001)

*Breezewood Management Co. v. Maltbie*, 411 N.E.2d 670, 673-4 (Ind.Ct.App.1980) implied warranty

*Cantwell v. Connecticut*, 310 U.S. 296(1940) (arrest for breach of peace, violation of Fourteenth Amend.)

*City of Boerne v. Flores*, 521 U.S. 507, 534, 536 (1997)(quoting *Katzenbach v. Morgan*, 384 U.S. 641, 651 (1966)). As Flores recently reaffirmed, "[i]t is for Congress in the first instance to 'determine whether and what legislation is needed to secure the guarantees of the Fourteenth Amendment' and its conclusions are entitled to much deference." Id. at 536 (quoting *Morgan*, 384 U.S. at 651).

*City of Chicago v. Matchmaker Real Estate Center, Inc.*, 982 F. 2d 1086, 1096 (7th Circ. 1992) held that corporate or other entities are responsible vicariously for Fair Housing Act violations of their employees.

*City of Rome v. United States*, 446 U.S. 156, 179 (1980), wherein the Court stated that "principles of federalism that might otherwise be an obstacle to congressional authority are necessarily overridden by the power to enforce the [Fourteenth and Fifteenth] Amendments 'by appropriate legislation"'.

*Cleburne, School Board of Nassau County v. Arline,* 481 U.S. 273, 283, 287 (1987)

*Commonwealth v. Tinsley,* 564 A.2d 286 (Pa. Commw. 1989)

*Davis v. Mason County,* 927 F. 2d 1473 (9th Cir. 1991) (failure to train can be deliberate indifference).

*EEOC v. Wyoming,* 460 U.S. 226, 243 n.18 (1983) "when properly exercising its power under § 5 [of the Fourteenth Amendment], Congress is not limited by the same Tenth Amendment constraints.

*Fitzpatrick v. Bitzer,* 427 U.S. 445, 455 (1976)

*Gorman v. Bartch,* 152 F .3d 907 (10th Cir. 1998)

*Griffin v. Brekenridge,* 403 U.S. 88(1971) §2

*Heller v. Doe,* 509 U.S. 312. (1993)

*Hunter v. Underwood,* 471 U.S. 222, 233 (1985) states "the Tenth Amendment cannot save [state] legislation prohibited by the subsequently enacted Fourteenth Amendment".

*Innovative Health Sys., Inc. v. City of White Plains,* 117 F .3d 37, 45 *(2d Cir. 1997)*

*Johnson v. City Saline,* 151 F. .3d 564, 569 (6th Circ. 1998)

*Kalina v. Fletcher,* 118 S.Ct. 502 (1997) False reports (prosecutor may be liable)

*Kilcullen v. N.Y. Dept. of Labor,* 205 F .3d 77, 80. (2nd Cir. 2000)

*Kimel v. Florida Bd. Of Regents,* 528 U.S.62, 81 (2000)

*LaDuke v. Nelson*, 762 F. 2d 1318, 1324 (9th Cir. 1985) ("the Supreme Court has repeatedly upheld the appropriateness of federal injunctive relief to combat a 'pattern' of illicit law enforcement behavior.")

*Marshall v. Owensboro-Daviess County Hospital*, 581 F .2d 116, 119 (6th Cir. 1978) "Congress' enforcement power under the Fourteenth Amendment is not limited by the Tenth Amendment".

*Miliken v. Bradley*, 433 U.S. 267, 291 (1977) stating "Just as § 1983 allows individuals to sue municipalities for unconstitutional conduct without violating those municipalities 'Tenth Amendment rights, so too does **§ 14141** allow the united States to bring "pattern or practice" misconduct suits against municipalities without violating the Tenth Amendment.

*Mixon v. Ohio and Michael White*, 193 F .3d 389, 398-99 (6th Cir. 1999 (States challenging Federal civil rights)

*Monell v. Department of Social Services*, 436 U.S. 658 (1978) under certain circumstances municipalities are liable for civil rights violations under § 1983, and rejected a Tenth

Amendment challenge and wherein it states *"There is certainly no constitutional impediment to municipal liability"*.

*Muller v. Costello*, 187 F .3d 298, 309 (2nd Cir. 1999)

*Northside Realty Assoc. Inc. v. United States*, 605 F. 2d 1348, 1353-54 (5th Cir. 1979) held that corporate or other entities are responsible vicariously for Fair Housing Act violations.

*Olson v. Tyler*, 771 F. 2d 277 (7th Cir. 1985) (Fourth Amendment violated when arrest was based on false reports).

*Parker v. District of Columbia*, 850 F. 2d 708, 712 (D.C. Cir. 1988)

(municipality may be liable for failing to train).

*Richardson v. Purvis*, 402 So.2d 910 (Ala. 1981)

*School Bd. Of Nassau County v. Arline* 480 U.S. 273, 284 (1987). Governmental decisions about persons with disabilities based on myths or unfounded fears violate the Equal Protection Clause.

*Shields v. Barrow*, 17 How. 130, 15 L. Ed 158

*Sutton v. United Air Lines, Inc.* 527 U.S. 471, 483 (1999)

*Swann v. Charlotte-Mecklenburg Bd. Of Ed.*, 402 U.S. 1, 15 (1971) ("Once a right and a violation have been shown, the scope of a district court's equitable powers to remedy past wrongs is broad, for breadth and flexibility are inherent in equitable remedies.").

*Thomas v. County of Los Angeles*, 978 F. 2d 504, 508-509 (9th Cir. 1993) ("A state law enforcement agency may be enjoined from committing constitutional violations where there is proof that officers within the agency have engaged in a persistent pattern of misconduct.").

*Thompson v. Davis*, 282 F .3d 780, 786-87 (9th Circ. 2002) see also Johnson, 151 F .3d at 569-70

*United States v. Johnson*, 946 F. Supp. 915, 918-919, (D. Utah 1996) ("The United States Supreme Court and the lower courts of appeals have consistently held that the United States and its agencies are not bound by state statutes of limitations").

*United States v. Morrison*, 120 S.Ct. 1740, 1755 (2000)

*United States v. Marsten Apartments, Inc.* 175 F.R.D. 257, 262 (E.D. Mich. 1997) (same as below).

*United States v. Paradise*, 480 U.S. 149, 183 (1987) ("A district court has 'not merely the power but the duty to render a decree which will so far as possible eliminate the [unlawful] effects of the past as well as bar like [illegality] in the future"').

*United States v. City of Parma*, 494 F. Supp. 1049, 1094, n.63 (N.D. Ohio) (United States is not subject to state statues of limitation when it brings a pattern or practice claim under the Fair Housing Act), aff'd 661 F.2d 562, 573 (6th Cir. 1981) ("a pattern or practice suit necessarily involves a number of discriminatory acts, not a particular one for which the time for bringing suit may be measured").

*United States v. Raines*, 362 U.S. 17 (1960), make clear that Congress has the power under § 5 to grant the United States authority to bring a suit for injunctive relieft to enforce citizens' constitutional rights. *Raines* reversed a lower court decision finding unconstitutional a section of the Civil Rights Act of 1957, 42 U.S.C. § 1971(c), that gave the Attorney General authority to enjoin interference with citizens' voting rights. *Raines* also rejected argument that, *"it is beyond the power of Congress to authorize the United States to bring action in support of private constitutional rights"*.

*Wood v. Strickland*, 420 U.S. 308, 315 n. 6 (1975) ("immunity from damages does not ordinarily bar equitable relief as well")

*Youngberg v. Romeo*, 457 U.S. 307 (1987)

*CONSTITUTION*

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## *STATUTES and REGULATIONS*

42 U.S.C. § 1981.(a), (b),
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42 U.S.C. § 1986
42 U.S.C. § 14141
42 U.S.C. § 2000d ("Title VI")
42 U.S.C. § 789d(c)
42 U.S.C. Chapter 21 Title 42 Public Health and Welfare
42 U.S.C. Chapter 144-Developmental Disabilities Assistance and Bill of Rights-Sec.(s) 15001, 15009, 15024, 15025, 15043

## *VIRGINIA STATUES*

CODE OF VIRGINIA:
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## *STATE CASES*

*Angstadt v. Atlantic Mut. Ins. Co.* 249 Va. 444, 446, 457 S.E.2d 86, 87 (1995)

*Bradley v. Carydale Enterprises* (1989), 730 F. Supp. 709 Civil Rights 242(4) (plaintiff establish that conduct is merely a pretext for discriminatory action 42) U.S.C. §§ 1981, 1982.

*Brichaceck V. Hiskey, 401 N.W. .2d 857, 859-60 (1982)*

*City of Richmond v. J .C. Croson* , 488 U.S. 469, 490 (1989) (plurality opinion of O'Connor, J.) ("Congress, unlike any State or political subdivision, has a specific constitutional mandate to enforce the dictates of the Fourteenth Amendment. The power to 'enforce' may at times also include the power to define situations which Congress determines threatens principles of equality and to adopt prophylactic rules to deal with these situations.")

*Ex parte Virginia,* 100 U.S. 339: (public authorities charged with their administration, and thus representing the State itself, with a mind so unequal and oppressive as to amount to a practical denial by the State of the equal protection of the laws which is secured to the petitioners).

*Federal Realty & Dev. Corp. v N. Litterio & Co.,* 213 Va. 3, 189 S. E. 2d 314 (1972) (applied that the staute of frauds would not be involved until plaintiff introduced his evidence).

*Gulfstream Bldg. Associates, Inc. v. Britt,* (1990), 387 S.E. 2d 488, 239 Va. 178. Judgment + 461 (5) (evidence supported finding that prior owner of lot, in uncontested adverse possession suit, had perpetrated extrinsic fraud on court, as required to support vacation of decree; landowner offered survey which he knew to be contrary to metes and bounds description in second survey and failed to join sole party which would likely have revealed existence of second survey and plat. Code 1950 § 8.02 -428 subd. C.) (Also (1990), 387 S.E. 2d 488, 239 Va. 178.

*Irwin v. Wine* 4 Va. Cir. 37 (Warren Co. 1981)

*Lemmon v. Herbert,* 1896 24 S.E.249, 92 Va. 653

*Millie I. Irwin v. Mary H. Wine* (1981) WL 180491 (Va. Circ. Ct.) retaliatory eviction

*Shaefer v. Murphy,* 640 P .2d 857, 859-60 (1982)

*Stanley v. Fairfax County Dept. of Social Services*, 1991 405 S.E.2d 621, 242 Va. 60

## *STATEMENT*

*JURISDICTION:*

This Petition for Rehearing is caused by the Honorable Supreme Court of United States entering it's order to deny the Pricer family's, Writ for Certiorari on the 6th day of October, 2003. The Writ for Certiorari originated from the General District Court of Fauquier County, Virginia and was caused by a Warrant in Debt and Unlawful Detainer Action being filed against Gwen R. Pricer and David Pricer, whose daughter is severely mentally and physically disabled, and who as such, is protected under the Americans With Disabilities Act. Such action was initiated by Samuel M. Butler and Betty C. Butler, who are your Respondents. Mr Butler served as a member of the Fauquier County Supervisory Board of Building and Development Department in Warrenton, Virginia for sixteen (16) years. A Final Order from the General District Court of Fauquier County was entered on the 9th day of March 2001. The Pricer family filed their appeal in the Virginia Circuit Court of Fauquier County on 20th day of March 2001. The family perfected their appeal to the Court on the 12th day of June, 2001. A Final Order was entered in the Virginia Circuit Court of Fauquier County by the Honorable Jeffrey W. Parker on the 23rd day of April 2002, and memorialized on the 24th day of April 2002. On the 29th day of April 2002, the Pricer family filed a Notice and Motion to Amend the Final Order as entered by that Honorable Circuit Court. On the 8th day of May 2002, the Honorable Jeffrey W. Parker convened a hearing and thereby entered a decision regarding all matters before the Court. The Final Order was memorialized on the 11th day of June 2002, by Crisler S. Lindsay, Esq., who was the counsel for your Respondents. The aforesaid Order, was entered over a month after the Court had made its decision. The Pricer family filed their Notice of Appeal in the Court of Appeals on the 17th day of May 2002. On the 24th day of June 2002, the Supreme Court of Virginia entered an Order to remove the Case from the Virginia Court of Appeals. On the 24th

day of July 2002, the Pricer family filed their Petition for Appeal to the Supreme Court of Virginia. On the 12th day of August 2002, the Pricer family filed a Motion to Amend their appeal and which was granted on the 18th day of September 2002, by the Supreme Court of Virginia. On the 23rd day of December 2002 Supreme Court of Virginia denied the Pricer family Petition for Appeal. On the 6th day of January 2003, a Petition for Rehearing was filed in the Supreme Court of Virginia. On the 28th day of February 2003, the Supreme Court of Virginia entered an Order denying your appellant(s) a Rehearing. On the 28th day of May 2003, the Pricer family filed a Writ Of Certiorari to this Honorable United States Supreme Court. On the 6th day of October 2003, review of their Writ of Certiorari was denied.

## *STATEMENT OF THE CASE*

Mr. and Mrs. Butler criminally induced the Pricer family to enter into an illegal Residential Property Lease that commenced on the 15th day of September 2000, and which included a residence (cottage) and barn situated on twenty-six and one-quarter acres (261/4) acres. The leased residence (cottage) and property would become the home of Gwen R. Pricer, (mother), David C. M. Pricer, (son), and Randi L. Eckhardt, (daughter, *who is permanently disabled*). Mr. David Pricer,(the husband), was not a resident. The family also had certain pets as part of their residential household, along with equine and other livestock that would have utilization of the barn facility. The Lease would include all utility services to both the residence (cottage) and the barn facility. The cost(s) for such services would be incurred by the Pricer family and reimbursed to Mr. and Mrs. Butler with the monthly rent payment. Additionally, a Security Deposit in the amount of Six- Hundred dollars ($600.00) was to be paid in two (2) equal payments of Three-hundred dollars ($300.00) each. The first payment was paid on the 8th day of August 2000. The latter payment of Three-hundred

dollars ($300.00), was due after final completion of certain property clean- up, water hookup, and maintenance by Mr. Butler to the residence. Clean-up of the property around the residence and barn facility was to include the removal of considerable waste material(s) and debris located throughout the property. This was agreed upon nuncupare during a meeting with Mr. Butler, David Pricer and Gwen R. Pricer and was duly noted on the residential property Lease by the omission of any penned due date for final payment of the balance. The barn facilities located on the property would provide a future income for Mrs. Pricer and her family by the establishment of an Equine Boarding Facility. During the week of November 22nd 2000, a fire erupted at a mobile home residency directly adjacent to the Pricer leased residential (cottage) property and caused a temporary shut down of vital electrical services to the residential (cottage)portion of the property. The barn facilities, retained its electrical supply through a separate utility box which was located in a rental unit adjacent to the barn portion of the property. On or about the 28th day of November 2000, such person(s) who identified themselves as agent(s) of the Rappahannock Electric Company arrived and permanently removed the electrical circuit breaker box from the residential property where the fire had taken place. This action caused a total loss of vital electrical services as needed by Mrs. Pricer to care for her handicapped daughter and son. Your Petitioners were required to locate their 28'(ft.) Shasta Recreational Vehicle next to the barn facility to reside in, until such time Mr. and Mrs. Butler could restore the electrical utility service to the residence (cottage). The Pricer family was caused to reside in their RV by their lack of the financial ability to seek other more suitable accommodation(s), and by the frigid weather at the time. The Pricer family, fully expected utility services to the cottage residence would be restored in the very near future and did thereby, give the correct and proper notification to Mr. and Mrs Butler for such restoration. Mr. and Mrs. Butler did not respond to any notification as given by the Pricer family. On or about the evening of 18th day of December

2000, during the first severe snowstorm of the year, Mr. Butler personally and with help from other private sector(s), cut-off all electrical and water service to the barn facility, thereby, removed the last source of utility service(s) available to the Pricer family and their RV, and which caused severe endangerment to the life of a *physically and mentally handicapped person*. Without financial resources available to Mrs. Pricer to afford the opportunity to arrange other living accommodation(s) for the family, Mrs. Pricer began to seek re-establishment of utility service(s). Upon contacting the Rappahannock Electric Company to establish such service, she was notified of their being totally ignorant to any resident facility existing on the leased property. The Rappahannock Electric Company, further stated they would not be able to provide any electrical power service without permission from the Fauquier County Building and Zoning Department. Mrs. Pricer, was advised to contact the appropriate County government agencies for their approval to re-install such electrical service breaker box(s). Contact to the Fauquier County Building and Development Department and the Zoning Department, along with a check of their records, revealed that Mr. and Mrs. Butler had not applied for any of the required building or zoning permits and that a Certificate of Occupancy had *never* been issued for the leased residence (cottage). Scrutiny of the County records revealed that the aforementioned mobile home, (where the fire had occurred), was the sole residence lawfully permitted to be on the leased residential property. Mrs. Pricer at this time filed a formal complaint with the Fauquier County Building and Development Department. On the 5th day of January 2001, Mrs. Pricer sent proper written notice to Mr. and Mrs. Butler to take immediate action to remedy the unlawful violations. The Respondents upon such notification by the Petitioners, began to manage and participate in innumerable acts of civil and criminal harassment and malice against the Pricer family, their pets and livestock. These acts are aided by certain private sector person(s), business(s), and agencies, who have confederated themselves with the Respondents in an effort and hope that these issues would

simply disappear or be filibustered. Fauquier County and certain government officials, did *not* take any course of action under the mandated Federal and State guidelines, to effectuate the Respondents to bring the leased home and property up to standard legal building code, in order to obtain a Certificate of Occupancy for the leased (cottage) residence. On the 28th day of December 2000, the Respondents, Samuel M. Butler and Betty C. Butler, filed a Summons for Unlawful Detainer Action in the General District Court of Fauquier County, wherein they stated the Pricer family was in default of rent. On March 2, 2001, in the General District Court of Fauquier County, with the Honorable Charles B. Foley presiding, the matter of the Unlawful Detainer Action was heard. Prior to the commencement of trial, the Honorable Charles B. Foley, *"put aside"* the Counter Claim filed on behalf of the Pricer family for *"lack of time"*. After hearing matters concerning the Unlawful Detainer Action, the Court on the 9th day of March 2001, entered a order wherein it stated, *"that no proper 5-day quit notice was given as required by the statue and that all total rent due was paid through November of 2000"*, and *"that the dwelling was uninhabitable under 21st century standards"*. The Court terminated the Lease and ruled that all rent should be abated. On the 20th day of March 2001, your Petitioners' filed their appeal to the Honorable Circuit Court of Fauquier County. On the 12th day of June 2001, the Honorable Jeffrey W. Parker in the Circuit Court of Fauquier County, held a Hearing for pre-trial matters. The Court scheduled a Five (5), day trial with jury, for the 22nd day of April 2002. Prior to the commencement of trial, on the 22nd day of April 2002, the Honorable Jeffrey W. Parker, requested the presence of S. Crisler Lindsay, Esq., counsel for the Respondents, and Gwen and David Pricer, to come before him and such action was caused by information received by the Court, that Mr. Michael M. Palmer, Esq., Counsel for the Pricer family, had not presented himself before the Court, to begin his representation of the Pricers' through trial matters. The Pricers, requested a Continuance of any length of time, but the Court denied their request even though it held aside

five (5) days for trial to hear the matters being brought before it. The Circuit Court of Fauquier County, was informed at this time, of the existence of a *physically and mentally disabled person,* who was an interested third party to all such trial matters to be Heard before the Court. The Pricers' were instructed by the Court to decide if they would proceed with trial matters *pro se,* a short recess was granted to make such a decision. The Pricers who were overwhelmed by their Counsel being absent, and the Court having a jury panel and their alternates sequestered, and a witness list that included the Fauquier County Sheriff, along with several of his deputy officers, were forced to proceed at trial in the matter of the Unlawful Detainer Action *pro se.* The Honorable Jeffrey W. Parker had issued a warning earlier to your Petitioners, wherein, he stated *"the Circuit Court is more formal in the requirements of trial procedure and this Court is going to hold you to those same standards as those of any other practicing attorney(s)".* The Pricer family was required by the Court, without any real and true legal guidance, to voluntarily *"non suit"* their Counterclaim under the statue of *8. 01-380* or have the Court proceed forward with a five day jury trial on all matters concerned. The Court entered into open discussions with opposing counsel and allowed such statements and opinions relating to the case(s)and its' history to be made before it, which were beneficial to the Respondents, but prejudiced the Pricer family and their case. The Pricers, found themselves placed in a foreign arena, speaking a foreign language without the legal expertise to understand the material facts of law, and as such, could not intervene on their own behalf to protect their rights during this period of trial. During trial for the matter of the Unlawful Detainer Action, Mr. Butler testified to having served on the Fauquier County Supervisory Board for almost sixteen (16) years, and to his being personally well versed in the building and zoning codes and statues governing the State of Virginia, and those of Fauquier County. He testified that he was given the opportunity to assist in the future development plans for Fauquier County. He testified that he and Mrs. Butler owned numerous real rental properties and that he was fully cognizant that

Randi Lee Eckhardt, a resident of the leased (cottage) residence, was a disabled person. During this portion of testimony he described Randi as being "mentally retarded". He testified to his deliberate actions to cut-off all water service to the residency(cottage), and all utility service(s) to the barn, even though he recognized her presence there at the time. He testified to his removal of the final power source to the leased barn facility during the snowstorm on or about the night of the 18th day of December 2000. Mr. Butler admitted under oath to the Court, that he and other family members, friends and employees, had entered onto the leased property with heavy equipment and dug several holes and trenches and he and such other persons had excavated a trench that ran through the middle of the leased property approximately the length of three-hundred-fifty feet(350), and about 3 feet deep. He gave further sworn testimony, describing how he personally cut off the final power source to the barn facility, causing the Pricer family the loss of all lighting, especially such security lights installed by the Pricer family, for the protection of Randi Lee Eckhardt. He testified under oath, of leaving holes and trenches (some over 6 ft in depth), open without covering them up, because it was his property and he could do what he wanted and he wanted the Pricer family, who were "squatters" off his land. He gave sworn testimony that the Sheriff of Fauquier County had arrived at the leased property to view such open trenches after Mrs. Pricer complained of Randi Lee Eckhardt, falling into the 350 ft. trench and being seriously hurt and frightened and that Randi was forced to walk her dog in the dark without the safety and security from such lights, as had been installed by the Pricer family, to prevent any such occurrence. Mr. Butler, gave sworn testimony that the Sheriff of Fauquier County, had only advised him to cover-up such holes or trenches or *possibly* face a *civil* law suit being filed against him. Mr. Butler was asked during his testimony, if he was cognizant of Randi Lee Eckhardt, having fallen into the open trench a second time *after* the visit by the Sheriff of Fauquier County, he testified that he had heard something about that. Mr. Butler testified that on several occasions

he entered unannounced onto the leased property with other family members, friends, and other associates, and that their acts were deliberate attempts to force the Pricer family "who were squatters on his land" to leave their leased (cottage) home and property. He testified that these acts were caused by the Pricer family not paying their rent to him for several months. When Mrs. Butler gave her sworn testimony she stated she was the acting rental agent for several properties owned by her and Mr. Butler. Mrs. Butler testified that she was responsible for the collection of all rent from such properties. Mrs. Butler testified to the Pricer family being delinquent on their rent and had been "squatting" on their land. She testified that she kept a recorded account of all rent payments received from her rental tenants and that the Pricer's had *not payed any rent for several months*. Mrs. Butler stated under oath, of having knowledge to the presence of monies held by the Clerk of the Circuit Court in Fauquier County, on behalf of the Pricer family for their Appeal Bond, to protect all rents as set by the Circuit Court of Fauquier County. On the 23rd day of April 2002, during a short recess from trial proceedings, S. Crisler Lindsay, the counsel for Mr. and Mrs.Butler, entered into a discussion with Mrs. Pricer, regarding a possible settlement of such trial matters. Mr. Lindsay proffered to Mrs. Pricer, the possibility of his refraining from seeking criminal charges against her, for posing herself as a licensed practicing attorney. Hearing such statements from Mr. Lindsay, Mrs. Pricer removed herself from his presence and upon the resumption of Court, requested to be heard on the official Court Record regarding the aforesaid statements. The Court addressed this matter and in part became a segment of the Pricer family "Statement of Facts". Mr. Lindsay, as acting counsel to the Respondents, deliberately aided and caused public malice, embarrassment and harassment to the Pricer family, and was aided by certain family members of Mr. Michael M. Palmer, counsel for the Pricer family. The Honorable Jeffery W. Parker, on the 23rd day of April 2002, upon hearing all trial testimony, adjudicated a Final Order in the matter of the Unlawful Detainer Action. The

Pricer family filed a Motion to Amend the Final Order. On the 8th day of May 2002, after hearing arguments *ore tenus*, by counsel for both parties, the Honorable Jeffrey W. Parker, entered a decision wherein, he stated "that such a Motion to Amend was frivolous and without merit". The Honorable Jeffrey W. Parker memorialized this Order on 11th day of June 2002, over a month after the Court requested the Order to be prepared by S. Crisler Lindsay, counsel for the Respondents. On the 8th day of May 2002, a Hearing took place in the Circuit Court of Fauquier County by the Honorable Jeffrey W. Parker, for argument from the Counsel of the Pricer family, regarding a Rule to Show Cause, issued against him as to why he should not be held in Contempt of Court for his failure to appear at trial. The Court ordered that facts were sufficient to hold Counsel in Contempt, a violation of the Virginia Code Section 18. - 456. 1, the Court deferred its' adjudication for twelve (12) months, and as part of the deferred finding, "that he withdraw as Counsel in the matter of Butler v. Pricer and that he will not serve as Counsel in the event the Pricer's re-file their counterclaim".

## STATEMENT (2)
## Additional Facts Presented

On or about the 29th day of July 2002, your petitioners, Gwen R. Pricer and David C. M. Pricer, were falsely accused and charged of perpetrating criminal acts in violation of Section(s) 18.2-51, 18.2-26 18.2-57. The aforesaid charges have since undergone multiple alterations as to the written statement(s) of the alleged victim(s), the name(s) of the alleged victim(s), and the dates of the alleged offenses. On or about the 30th day of September 2002, all charges against David C.M. Pricer were dismissed. On the 9th day of December 2002, Gwen R. Pricer was indicted by a Grand Jury of Fauquier County on the aforementioned false and unwarranted charges, and faces the humiliation and embarrassment of a formal criminal trial.

## *ARGUMENT* FOR CERTIORARI

28 U.S.C. section 1257 (1), (2), (3), and 28 U.S.C.§ 1331. are very specific in the requirements for a Writ of Certiorari to be granted. In the case of the Pricer family, their Writ engenders all the criteria requisites for the United States to grant consideration of their Writ, The 21st Century way of life in the United States, should far exceed the interest(s) of those who would seek to undermine the intentions of our forefathers in drafting the Constitution. The Constitution in its' most purest form has been anatomized relentlessly for rights and liberties of all the citizen(s) of the United States. However; in the case of a mentally or physically handicapped person(s) we continue to fail in protecting these special individuals from the loss of these same privileges, even after years of study and dedication from many arenas. The Pricer family Writ of Certiorari may occasion the opportunity for the United States to finally address an area that has not been clearly defined for the State(s) and their courts. Individual State judicial tribunals continue to be confused and rebellious against the direction of the United States and the Constitution. State(s) desiring to retain its own power, willingly or unwillingly, deprive certain individuals, such as the mentally and physically disabled of this Country, their right to be recognized within a judicial tribunal. Until recently act(s) of civil and criminal nature by certain governmental agency(s) and private sector(s) to perpetrate the stigmata, separation and segregation of citizen(s) has gone unbridled and this is more * (*"pernicious than any private discrimination as it legitimates society's unfair consensus and such action is so* often *embodied in statutes and regulations"*). Arbitrary and irrational action by any governmental arena is what our Fourteenth Amendment sought to forbid against.

For these reasons the Pricer family request their Writ of Certiorari be *Granted.*

*absens haeres non erit (L)*....the absent one will not be the heir - out of sight, out of mind.

## CONCLUSION

This Petition for Rehearing in the matter of the aforesaid Writ of Certiorari, should be granted to the Pricer family for review and consideration(s) by this Honorable United States Supreme Court for the express purpose of acknowledging our basest of civil rights, and existing legislation regarding civil procedure where it concerns mentally and or physically handicapped individuals. This Petition for Rehearing is requested in good faith by the Appellants and is not intended to delay further proceedings necessary for conclusion of all such matters being presented to the United States Supreme Court for review.

Respectfully submitted on this the 31st day of October 2003 by:

Gwen R. Pricer, *pro se*

David C. M. Pricer *pro se*

on behalf of Randi Lee Eckhardt, *pro se*

## CERTIFICATE OF SERVICE

The undersigned acting as *pro se* in this matter and by signature concerning this matter, certifies the following:

1. The name and mailing address of the Petitioner(s) is:

   Gwen R. Pricer
   Post Office Box 992
   Goochland, Virginia, 23063
   (804) 647-6878
   (540) 891-1953

   David C. M. Pricer
   Randi Lee Eckhardt
   Post Office Box 405
   295 South Main Street
   Lakeview, Ohio 43331
   (804) 647-6878
   (540) 891-1953

2. The name(s) and address of the Respondents is:

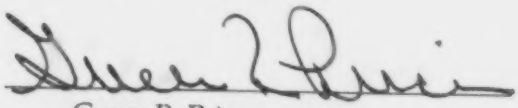
   Samuel M. Butler and Betty C. Butler
   10238 Copperfox Lane
   Midland, Virginia 22728
   (540) 439-6565

3. The name and address for the Respondents counsel is:

   S. Crisler Lindsay, Esq.
   763 Madison Road, Suite 206
   Culpeper, Virginia 22701
   (540 825-9500

I, Gwen R. Pricer, as *pro se* Appellant, hereby certify that a copy of this Petition for Rehearing for Writ of Certiorari has been mailed on this the 31st day of October 2003, postage prepaid to Samuel M. Butler and Betty C. Butler at 10238 Copperfox Lane, Midland, Virginia 22728 and to S. Crisler Lindsay, Esq., at 763 Madison Road, Suite 206, Culpeper, Virginia 22701.

*TO THESE STATEMENTS*, I set forth my hand on the 31st day of October 2003.



Gwen R. Pricer, *pro se*